

Potential TWIA Rehabilitation

Frequently Asked Questions

Rehabilitation Process:

1. What is Rehabilitation?

Rehabilitation is a receivership proceeding conducted under Chapter 443 of the Texas Insurance Code. A Rehabilitation Order appoints the Commissioner as Rehabilitator, and vests the Rehabilitator with title to the insurer's property and the authority to run the insurer. The Rehabilitation Order suspends the powers of the directors, officers and managers, except as delegated by the rehabilitator. Rehabilitation is similar to a reorganization in bankruptcy, because the goal of the proceeding is for the entity to eventually be released from the proceeding and continue its operations.

2. How does Rehabilitation work? What is the process?

The Rehabilitator files a Rehabilitation Plan (Plan) with the Court for approval, at which time there is an opportunity for statutorily-defined stakeholders to object. The Plan would provide for the treatment of claims and for the overall handling of the insurer in Rehabilitation. The Plan would also provide a process for the insurer to emerge from Rehabilitation.

3. What authority does TDI have to place TWIA in Rehabilitation?

The Commissioner has authority to file an action to place any insurer in Rehabilitation. Chapter 443 of the Texas Insurance Code applies to all insurers doing business in Texas, and all persons subject to examination by the commissioner. TWIA is subject to examination under the Texas Insurance Code, and is doing the business of insurance as defined in Chapter 443 of the Texas Insurance Code.

4. Why could TDI decide to send TWIA to Rehabilitation at this time?

TWIA's 2012 Annual Statement was filed on February 28, 2013. The Annual Statement shows that, based on additional litigation filed in 2012, TWIA is now insolvent. TWIA's liabilities exceed its assets by \$183 million. Allowing TWIA to continue to operate in this condition could place new policyholders in jeopardy, and could further threaten the current policyholders.

5. Is Rehabilitation really the best option?

Rehabilitation may be the best regulatory option because it ensures that the insurer's policyholders are treated equally, provides court oversight over the attempt to revitalize the insurer, and does not place current coverage in peril.

6. What happens to the pending lawsuits against TWIA?

Upon the filing of the Rehabilitation petition, lawsuits in which TWIA is a defendant would be stayed, subject to limited exceptions.

7. What are the possible next steps?

A petition must be filed requesting that TWIA be placed in Rehabilitation, and then an order must be entered placing TWIA into Rehabilitation and appointing the Commissioner as Rehabilitator. Once the order is in place, the Rehabilitator would take over TWIA's operations. The Rehabilitator would then file an application requesting approval of a Rehabilitation Plan.

Effect of Rehabilitation on Coverage and Claims:

8. Would TWIA policyholders still have insurance?

Yes. Policies would continue in effect in accordance with their terms.

9. Would TWIA continue issuing renewals and new policies?

Yes. TWIA would continue to renew and issue policies as required by, and based on the requirements of, Chapter 2210 of the Texas Insurance Code.

10. How would existing/outstanding claims be paid?

Claims under policies of insurance would continue to be paid, according to law.

11. What happens if the TWIA policyholders' homes are damaged between now and the time the Legislature can act to set up some new form of insurance assistance for individuals living along the Coast? Would claims be paid?

Claims would be paid in accordance with the Rehabilitation order and the Rehabilitation Plan, upon its approval by the Court. The Rehabilitation Plan would set out a detailed process addressing claims handling and payment. The hold on claims payments would not apply to losses stemming from storms occurring after TWIA was placed in Rehabilitation.

12. What about TWIA policyholders who are still owed settlement money from lawsuits arising out of Hurricanes Ike and Dolly?

The Rehabilitation Plan would govern the payment of claims. As described above, a claimant might be required to submit a proof of claim for the settlement, and the amount that is approved would be classified in accordance with a priority scheme adopted in the court-approved Rehabilitation Plan. If TWIA's funds are insufficient to pay all existing claims, it may be necessary for the Rehabilitator to make partial payments on a pro rata basis.

TWIA's current financial situation:

13. What would happen to the money in the CRTF?

Under statute, TWIA may use the Catastrophe Reserve Trust Fund (CRTF) only to pay losses from events occurring in the current and future calendar years. Receivership does not affect the CRTF or change the statutory scheme, because the CRTF is not TWIA's asset: it is a fund held outside the treasury for a statutorily-defined purpose.

14. What would TDI do with the reinsurance previously purchased by TWIA?

The Rehabilitator is authorized to assume or reject reinsurance contracts. The Rehabilitator would determine whether to continue reinsurance contracts, whether to enter into new contracts, and would take whatever action is in the best interests of policyholders and creditors.

15. What would happen to the \$500 million in approved pre-event securities?

Under statute, TWIA may use pre-event public securities only to pay losses from events occurring after the public securities have been issued. TWIA does not currently have any outstanding pre-event public securities. If the Texas Public Finance Authority (TPFA) issued pre-event public securities for TWIA, the TPFA would hold the proceeds of those securities in trust for TWIA's use as allowed by statute.

Other:

16. If TWIA had not paid for assistance with litigation and claims operations, could TWIA have been saved and not sent into Rehabilitation?

No. TWIA is insolvent by \$183 million. The insolvency is the direct result of litigation stemming primarily from Hurricane Ike. The total overall loss from Hurricane Ike is now over \$2.5 billion.

17. Do policyholders and claimants need to do anything at this time to protect themselves? As always, reviewing your coverages and shopping your insurance is a healthy practice that can help you protect your property and potentially save money. However, in regards to the potential Rehabilitation, no action is necessary at this time.

18. Would Rehabilitation affect the availability of mortgages in areas covered by TWIA?

Rehabilitation would not change TWIA's ability to issue new policies, renew policies, or fulfill its obligations under current policies.

19. What effect would Rehabilitation have on TWIA employees?

TWIA employees' conditions of employment would not change, and employment would continue as long as appropriate based on factors such as job performance, and the requirements of the ongoing TWIA.